

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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LATIFAH NICAISSE,

Plaintiff,

Civil Action No.:

-against-

**COMPLAINT**

MERCANTILE ADJUSTMENT BUREAU, LLC,

**DEMAND FOR JURY TRIAL**

Defendant(s).

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Plaintiff LATIFAH NICAISSE ("Plaintiff"), by and through her attorneys, M. Harvey Rephen & Associates, P.C. by Edward B. Geller, Esq., P.C., as and for its Complaint against the Defendant, MERCANTILE ADJUSTMENT BUREAU, LLC (hereinafter referred to as "Defendant(s)"), respectfully sets forth, complains and alleges, upon information and belief, the following:

**INTRODUCTION/PRELIMINARY STATEMENT**

1. Plaintiff brings this action on her own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

**PARTIES**

2. Plaintiff LATIFAH NICAISSE is a resident of the State of New York, residing at 215 Tree Avenue, Central Islip, New York 11722-2748.

3. Defendant MERCANTILE ADJUSTMENT BUREAU, LLC is a New York limited liability corporation with their main office at 165 Bell Drive, Suite 100, Williamsville, New York 14221.

4. The Plaintiff is a "consumer" as the phrase is defined and used in the FDCPA under 15 USC §1692a(3).

5. The Defendant is a "debt collector" as the phrase is defined and used in the FDCPA under 15 USC §1692a(6).

### **JURISDICTION AND VENUE**

6. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §1367(a).

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

### **FACTUAL ALLEGATIONS**

8. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "7" herein with the same force and effect as if the same were set forth at length herein.

9. Upon information and belief, Defendant, on behalf of a third-party, began efforts to collect an alleged consumer debt from the Plaintiff.

10. Upon information and belief, and better known to the Defendant, the Defendant began its campaign of communications with the Plaintiff by placing a call to telephone number of 631 342 0978 on April 23, 2015 and leaving a voice message.

11. The Defendant's message was spoken by a woman who stated that Defendant was calling Plaintiff to collect a debt and requesting a return call to 866 929 8261.

12. The telephone number which Defendant called on April 23, 2015 and at which the aforementioned information was left, belongs to Inez Nicaise, Plaintiff's mother.

13. Inez Nicaisse's recorded voice mail greeting is "Hello, you've reached Inez."

14. Inez Nicaisse heard Defendant's message, much to Plaintiff's embarrassment and distress, and she relayed the message to Plaintiff.

**FIRST CAUSE OF ACTION**  
***(Violations of the FDCPA)***

15. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "14" herein with the same force and effect as if the same were set forth at length herein.

16. Pursuant to 15 USC §1692c(b), without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than a consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.

17. The Defendant violated 15 USC § 1692c(b) by disclosing to Plaintiff's mother, Inez Nicaisse, that the Plaintiff was being contacted by a debt collector regarding a debt.

18. As a result of Defendant's neglect and carelessness in leaving a telephone message on a voice mail belonging to a third party using Plaintiff's name and debt collection disclosures, Plaintiff suffered extreme shame, embarrassment and mortification and according to 15 USC §1692k(a)(1), Defendant is liable to Plaintiff for damages sustained because of Defendant's failure to comply with §1692 et seq. of Title 15 of the United States Code (the FDCPA).



**DEMAND FOR TRIAL BY JURY**

19. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.


**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands judgment from the Defendant as follows:

- A. For actual damages provided and pursuant to 15 USC §1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 USC §1692k(2)(A);
- C. For statutory damages provided and pursuant to 15 USC §1692k(2)(B);
- D. For attorneys' fees and costs provided and pursuant to 15 USC §1692k(a)(3);
- E. A declaration that the Defendant's practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York  
September 21, 2015

Respectfully submitted,

By:   
Edward B. Geller, Esq.(EG9763)  
Edward B. Geller, Esq., P.C., Of Counsel to  
M. HARVEY REPHEN & ASSOCIATES, P.C.  
15 Landing Way  
Bronx, New York 10017  
Phone: (914)473-6783

*Attorney for the Plaintiff* LATIFAH NICAISSE

To: Mercantile Adjustment Bureau, LLC  
165 Lawrence Bell Drive, Suite 100  
Williamsville, New York 14221

*(Via Prescribed Service)*

Clerk,  
United States District Court, Eastern District of New York

*(For Filing Purposes)*

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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**COMPLAINT**

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